THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.4387 OF 2006

Date: 16-03-2006

Between:

Sri Vasundhara Rice Products (P) Ltd., …Petitioner

And

Commercial Tax Officer …Respondent

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.4387 OF 2006

O R D E R (Per the Hon'ble Sri Bilal Nazki, J):

An order dated 09-12-2005 passed by the respondent-Commercial Tax Officer, restricting the claim of the petitioner for sales tax credit to Rs.7,67,789/- only, has been challenged in this writ petition.

The petitioner claimed credit for Rs.10,62,914.60 ps. This claim had become available on coming into force of the Andhra Pradesh Value Added Tax Act, 2005. The respondent issued a notice on 23-10-2005. Relevant portion of the said notice reads as under:

> *"I am TO notify you that your claim FOR SALES TAX CREDIT IS restricted to Rs.767789 AS AGAINST Rs.1062914.6 claimed by you. I herewith furnish the reason for restriction OF SALES tax credit: approved*
>
> *You are therefore requested TO FILE your written objections IF ANY along WITH documentary evidence within 10 days OF DATE OF this notice failing which the proposal AS stated above will be confirmed without ANY further notice IN the matter"*

This will amply show that no reasons for restricting the claim were given by the respondent-Commercial Tax Officer. The petitioner was asked to reply within ten days. Petitioner contends that he did not reply because there was no reason given in the notice for coming to a conclusion that he was not entitled to the credit of Rs.10,62,914.60 ps. Then, the respondent-Commercial Tax Officer proceeded to pass the order dated 09-12-2005 on the ground that the petitioner had not responded to the notice.

Counter has been filed. Some reasons have been assigned in the counter stating that the petitioner had failed to show that there was movement of goods, and that the notice was not on the weight of the goods, but notice did not contain any reason,

which could have been replied to by anybody.

For this reason, alone, we allow the writ petition, set aside the notice dated 23-10-2005 and also the order dated 09-12-2005. However, the respondent is at liberty to issue fresh notice to the petitioner in accordance with law. No order as to costs.

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(Bilal Nazki, J)

16th March, 2006

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(G.Chandraiah, J)

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